

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 06-14786  
Non-Argument Calendar

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FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JANUARY 10, 2008 THOMAS K. KAHN CLERK
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D. C. Docket No. 06-20167-CR-MGC

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BARRY KEITH DAMES,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Florida

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**(January 10, 2008)**

Before TJOFLAT, ANDERSON and HULL, Circuit Judges.

PER CURIAM:

Appellant received the mandatory minimum sentence of 36 months'

incarceration prescribed by 8 U.S.C. § 1324(a)(2)(B)(ii), attempting to bring an alien into the United States for financial gain. He now appeals his sentence, contending that the district court erred in enhancing his offense level on the ground that he committed the offense while on supervised release.

The Guidelines sentence range the court found called for a prison term of 15-21 months. That range was inapplicable, however, because the mandatory minimum sentence the court was required to impose exceeded the sentence range. See U.S.S.G. § 5G1.1(b) Therefore, even if we were to agree with appellant – that the court erred in enhancing his offense level – the error was harmless.

**AFFIRMED.**